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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,441	01/12/2004	Gregg Bernard Lesartre	200313774-1	2155

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FORT COLLINS, CO 80527-2400

EXAMINER
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BAROT, BHARAT

ART UNIT	PAPER NUMBER
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2155

MAIL DATE	DELIVERY MODE
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10/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/756,441	LESARTRE ET AL.	
	Examiner	Art Unit	
	Bharat N. Barot	2155	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/12/2004 &amp; 04/20/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. Claims 1-23 are presented for examination.

**Specification**

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

**Claim Objections**

3. Claim 18 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 17. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after rejecting/allowing one claim to object to the other as being a substantial duplicate of the rejected/allowed claim. See MPEP § 706.03(k).

**Claim Rejections - 35 USC § 101**

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 10 is rejected under 35 U.S.C. 101 because the claimed invention of the claim 10 is directed to non-statutory subject matter. Claim 10 recited "A computer readable medium having computer readable instructions....." which is non-statutory as not being tangibly embodied in a storage medium and in manner so as to be executable by a computer/processor.

**Claim Rejections - 35 USC § 102**

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Nemawarkra et al (U.S. Patent No. 7,159,137). Nemawarkra's patent meets all the limitations for claims 1-23 recited in the claimed invention.

8. As to claim 1, Nemawarkra et al teach a method to process gaps in data communications (see abstract and summary of the invention) comprising: generating a control data packet, the control data packet having information indicative of the status of data communication and the sequence of data communications; communicating the control packet of data from a serializer to a deserializer over a data communications channel; and processing the control data packet by the deserializer to identify a data communication gap (figures 10-11s; and column 18 line 4 to column 21 line 19).

9. As to claims 2-3, Nemawarkra et al teach that encoding data for communications by the serializer and decoding data received by the deserializer (figures 2-3; and column 10 lines 32-53).

10. As to claims 4-6, Nemawarkra et al teach that generating a small packet of data having data representative of data communication gaps and control information; and communicating the small packet of control information over a dedicated control communications channel (figures 3 and 11s; and column 9 line 58 to column 10 line 53; and column 19 line 11 to column 21 line 19).

As to claims 7-9, Nemawarkra et al teach that generating encoding by the serializer the small packet of control information with a selected value indicating the presence of a data communications gap; communicating the small packet having the selected value by the serializer to the deserializer in the event that data communications gap is identified by the serializer; and upon receiving the micro-packet by the deserializer indicating that there is a gap in data communications, sending a signal by the deserializer to the serializer to proceed with data communications operations (figures 2-3 and 10-11s; and column 8 line 46 to column 10 line 53; and column 18 line 4 to column 21 line 19).

11. As to claim 10, it is also rejected for the same reasons set forth to rejecting claim 1 above, since claim 10 is merely a computer program product for the method of operations defined in the method claim 1.

12. As to claims 11-18, they are also rejected for the same reasons set forth to rejecting claims 1-9 above, since claims 11-18 are merely an apparatus for the method of operations defined in the method claims 1-9. Additionally, Nemawarkra et al teach that the communication of the control packet to indicate a gap in data communications occurs at the beginning of a clock cycle (figures 10 and 11A; and column 18 line 4 to column 20 line 2).

13. As to claims 19-23, claims 19-23 do not teach or define any new limitations than above claims 1-18; therefore, they are rejected for the similar reasons.

#### **Additional References**

14. The examiner as of general interest cites the following references.

- a. Senevirathne et al, U.S. Patent No. 7,062,568.
- b. Bannai et al, U.S. Patent No. 6,647,428.

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**Contact Information**

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bharat Barot** whose Telephone Number is **(571) 272-3979**. The examiner can normally be reached on Monday-Friday from 7:00 AM to 3:30 PM. Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number **(571) 273-8300**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Saleh Najjar**, can be reached at **(571) 272-4006**.

Patent Examiner Bharat Barot

Art Unit 2155

September 20, 2007

*Bharat Barot.*  
**BHARAT BAROT  
PRIMARY EXAMINER**